



City of Riverside
Personnel Policy and Procedure Manual

Approved:

Human Resources Director

City Manager

Number: VI-4 Effective Date: 11/03/97

SUBJECT: FAMILY, MEDICAL, AND/OR PREGNANCY DISABILITY LEAVE

PURPOSE:

To define the City of Riverside's policy and procedure with regard to family, medical, and pregnancy disability leave in accordance with state and federal laws including the Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and the California Pregnancy Disability Act (PDA).¹

DEFINITIONS:²

Spouse - a husband or wife, as defined or recognized under state law for purposes of marriage, including common law marriage in states where it is recognized.

Son or Daughter - a biological, adopted or foster child, a step child, a legal ward (guardianship or conservatorship), or a child of a person standing *in loco parentis*. The son or daughter must be under 18 years of age, or if over 18, incapable of self-care because of a mental or physical disability.

Parent - the biological parent of an employee or an individual who stands or stood *in loco parentis* to an employee when the employee was a son or daughter. This does not include parents-in-law.

Health Care Provider - (1) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; (2) any other person determined by the United States Secretary of Labor to be capable of providing health care services.

Serious Health Condition - an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care in a medical facility including an overnight stay, a period of incapacity, and subsequent treatment in connection with such care.
2. Continuing treatment by a health care provider for a serious health condition including:

¹Family and Medical Leave Act, 29 U.S.C. 2601 and following; California Family Rights Act is also known as the Moore-Brown Roberti Family Rights Act, California Government Code 12945.2 and 19702.3; California Pregnancy Disability Leave Provisions, California Government Code 12945.

²Words used in the policy will have the meaning assigned to them as defined by the FMLA, CFRA, and PDA.

- a. a period of incapacity of more than three consecutive calendar days and subsequent treatment two or more times by a health care provider, or
- b. a period of incapacity due to pregnancy or for prenatal care, or
- c. a period of incapacity or treatment for a chronic serious health condition which requires periodic visits for treatment by a health care provider over an extended and/or episodic period (e.g. Asthma, diabetes, epilepsy), or
- d. a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimers, severe stroke, terminal cancer), or
- e. a period of absence to receive multiple treatments for an injury or condition which would result in incapacity of more than three days if not treated (e.g. Chemotherapy or radiation for cancer, physical therapy for severe arthritis, or dialysis for kidney disease).

Short term conditions requiring only brief treatment and recovery such as the common cold, the flu, ear ache, upset stomach, minor ulcers, headaches, routine dental or orthodontia are not "serious health conditions". Voluntary cosmetic treatments which are not medically necessary are not "serious health conditions" unless inpatient care is required or complications arise.

POLICY:

1. ELIGIBILITY & ENTITLEMENT

A. Family and Medical Leave

Employees who have been employed for at least one (1) year, and for at least 1,250 hours during the preceding 12-month period are eligible for family and medical leave. All employees who meet the applicable time-of-service requirements may be granted a combined total of twelve (12) work weeks of leave. Employees who work less than full time (40 hours per week) are entitled to leave on a pro-rata basis. For example, if an employee works 25 hours per week, their leave period will consist of 12 weeks of 25 hours (300 hours).

In cases where both parents are employed by the City, the total amount of leave they can take is limited to a total of 12 weeks combined for the birth, adoption, or foster care placement of their child. (See also Section 1.B.)

All employees who meet the applicable time-of-service requirements may be granted a leave for the following reasons:

- a) the birth of the employee's child and in order to care for the child;
- b) the placement of a child with the employee for adoption or foster care;³

³Foster care must be by a formal agreement between the foster parent and the state, county, or licensed foster care placement agency.

- c) to care for a spouse, child, or parent who has a serious health condition; or
- d) a serious health condition that renders the employee incapable of performing the functions of his or her job.

B. Pregnancy Disability Leave

All female employees, regardless of service time, are eligible for up to 16 weeks under the PDA due to disability caused or contributed to by pregnancy, childbirth, or recovery therefrom with appropriate medical certification. Leave taken under the PDA will be counted against the 12 week FMLA entitlement, if any. Mothers who qualify are entitled to an additional 12 weeks leave under the CFRA.

The employee may request a transfer to a less hazardous or strenuous position if she is capable of working in such a position even though she is temporarily disabled due to pregnancy, childbirth, or a related medical condition.

C. Other

For employees not eligible for family, medical, and/or pregnancy disability leave, the City will review business considerations and the individual circumstances involved in accordance with the City's Personnel Policy "Leave of Absence Without Pay (General)", VI-6 .

2. ENTITLEMENT PERIOD

For purposes of family and medical leave, the employee's 12-month entitlement period will begin with the first day on which leave is taken. Leave taken by the employee will then be credited against the twelve-week entitlement period from the first day forward. The entitlement to leave (FMLA or CFRA) for the birth or placement of a child will expire twelve (12) months from the date of the birth or placement.

3. REQUESTING/GRANTING LEAVE

It is the responsibility of the employee to request family, medical, and/or pregnancy disability leave through their immediate supervisor and the responsibility of the City to determine whether or not an employee's leave qualifies as family and medical leave. An employee must sufficiently explain the purpose of his or her leave request so that the City can determine whether the absence qualifies as family or medical leave even when the employee is requesting to use accrued paid leave (e.g. vacation or sick leave).

An employee requesting leave must complete a Request for Leave Form and return it to their supervisor at least 30 days prior to the beginning of the leave period. An application for leave based on pregnancy disability, or the serious health condition of the employee or the employee's spouse, child, or parent, must be accompanied by a Medical Certification Form completed by the applicable health care provider, except in an emergency as provided below.

In the case of an unforeseen event or incapacitation, notification must be made by the employee or the employee's authorized representative to the supervisor as soon as the need arises and no

later than two business days after leave has commenced. The Human Resources Director or designee will review unusual circumstances and make a final determination on such cases.

The supervisor will forward the Request for Leave Form to the Department Head who will forward it to the Human Resources Department by the next work day.

4. LEAVE USAGE

An employee who has been granted leave under this policy must use all accrued sick leave and vacation leave in accordance with City policy including the Fringe Benefit Resolution and Memoranda of Understanding. Employees may *elect* to use earned compensatory time as paid leave towards their family, medical, and/or pregnancy disability leave entitlement. The remainder of the leave period will then consist of unpaid leave.

As such, sick leave accruals will be used first when leave is granted for 1) the employee's own serious health condition, 2) pregnancy disability, 3) to care for a spouse, child or parent (see definitions) with a serious health condition **residing in the same household**.

Vacation leave will be used for leave granted when 1) eligible sick leave accruals have been exhausted or 2) sick leave does not apply to requested leave as indicated above. Vacation leave under this policy will be used to care for a parent or child with a serious health condition **residing in a separate household**.

5. BENEFITS COVERAGE DURING LEAVE

During a period of qualifying leave, an employee will be retained on the City's health plan under the same conditions that applied before leave commenced (for a maximum of twelve weeks). To continue health coverage, the employee must continue to make any contributions that they made to the plan before taking leave. Failure of the employee to pay their share of the health insurance premium may result in loss of coverage. The City will cease to maintain the employee's health coverage if an employee's premium payment is more than thirty (30) days late. The City will notify the employee fifteen (15) days before coverage will cease. The employee is responsible for all health coverage costs for periods of leave exceeding 12 weeks in any one year. The employee is also responsible for maintaining dues to the employee association, if required.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the City for payment of health insurance premiums paid during the family leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing their job, or circumstances beyond the employee's control (in accordance with state and federal laws).

An employee's hire date and job entry date will not be adjusted as a result of the leave. The review date for merit salary increases shall be subject to adjustment for all non-paid time of 20 working days or more. An employee on paid leave will continue to accrue sick leave and vacation leave at their normal rate; however, an employee on an unpaid leave will not accrue sick and vacation leave.

Employees in the General, Confidential, and Refuse Units taking leave under this policy may be eligible for benefits under the State Disability Insurance (SDI) Program. (See Personnel Policy on SDI).

6. REINSTATEMENT

Employees returning from leave will be reinstated to the same or an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, unless the position ceases to exist because of legitimate business reasons unrelated to the leave. An employee returning to work from leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave period. The City cannot guarantee that an employee will be returned to their original assignment. A determination as to whether a position is an 'equivalent position' will be made by the City.

Employees taking family and medical leave who are designated as "highly compensated employees" (exempt from the Fair Labor Standards Act (FLSA) and in the top 10% in pay of all employees) may or may not be reinstated based on business considerations.

7. RETURN FROM LEAVE

An employee on leave is expected to return to work on the next work day following the approved leave period. If an employee wishes to return to work prior to the expiration of a leave, notification must be given to the employee's supervisor at least five (5) working days prior to the employee's revised return date.

Upon returning from a leave, the employee must submit a Medical Certification Form from the health care provider stating that the employee is able to return to work when the leave was for the employee's own serious illness or pregnancy disability.

8. EXTENSION OF LEAVE

Employees who desire leave over and beyond family, medical, and/or pregnancy disability leave may request leave without pay, in accordance with the City's Personnel Policy "Leave of Absence Without Pay (General)". Leave requests may not exceed a combined total of one year under the various leave policies.

9. FAILURE TO RETURN FROM LEAVE

The failure of an employee to return from work upon the expiration of a leave of absence will subject the employee to disciplinary action up to and including termination, unless an extension is granted. A "Notice of Intent to take Disciplinary Action" for job abandonment will be initiated by the Department Head and sent to the employee by regular and certified mail when the employee fails to return to work. The employee will have ten (10) days to respond in accordance with Personnel Policy, "Discipline", III-1.

PROCEDURES:

<u>Responsibility</u>	<u>Action</u>
REQUESTING/GRANTING LEAVE	
Employee	<ol style="list-style-type: none">1. Provides supervisor with a completed Request for Leave Form at least 30 days prior to the beginning of the leave period. In the case of an unforeseen event, notifies supervisor as soon as possible.2. Provides supervisor with a Medical Certification Form (in addition to the Request for Leave Form) when taking leave for pregnancy disability or the serious health condition of the employee or the employee's spouse, child, or parent.
Supervisor or Department Head	<ol style="list-style-type: none">3. Forwards the employee's request to Human Resources by the next work day.
Human Resources	<ol style="list-style-type: none">4. Determines if the request for leave meets entitlement criteria and:<ol style="list-style-type: none">a. Notifies department and employee of determination either verbally or in writing within two work days.b. If notification is done verbally, sends written notification within ten (10) work days.
City of Riverside	<ol style="list-style-type: none">5. Provides requested leave for employees who meet the entitlement criteria.
Supervisor	<ol style="list-style-type: none">6. Prepares a Personnel Action Form (P-2) indicating the effective date of the leave (first day of leave usage). Forwards P-2 form to Human Resources.7. Requires the employee to utilize accrued sick leave and vacation leave (in accordance with the City's MOU's, the Fringe Benefit Resolution, and this policy) concurrent with family, medical, or pregnancy disability leave.

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| | 8. Ensures that the employee's time card is coded with appropriate family, medical and/or pregnancy disability hour types (contact Payroll for specific code information). |
| | 9. Prepares a Personnel Action Form (P-2) placing the employee on an unpaid family, medical, and/or pregnancy disability leave of absence when all available accrued sick leave and vacation leave have been exhausted (in accordance with the City's MOU's, the Fringe Benefit Resolution, and this policy). Forwards P-2 form to Human Resources. |
| Employee | 10. Maintains the employee's share of health benefit contributions under the same conditions that applied before leave commenced. |
| | 11. Remits appropriate payments in response to billing advice from the City of Riverside. |
| RETURNING FROM LEAVE | |
| Employee | 12. Provides a Medical Certification Form from the health care provider stating that the employee is able to return to work (when leave was taken for employee's own serious illness, or for pregnancy disability). |
| | 13. Returns to work on the next work day following the approved leave period. When returning prior to expiration of a leave, provides supervisor with at least five (5) work days notice prior to the return date. |
| Supervisor/Department Head | 14. Prepares a Personnel Action Form (P-2) returning the employee to regular status (when employee has been on an unpaid status). Forwards P-2 form to Human Resources. |
| | 15. Reinstates the employee to their original assignment or an assignment substantially similar on the agreed upon date of return, unless the employee's assignment ceased to exist because of legitimate business reasons unrelated to the leave. |

REQUESTING ADDITIONAL LEAVE

Employee

16. Requests leave without pay per the City's Leave of Absence Without Pay - General Policy when leave over and beyond family, medical, and/or pregnancy disability leave is desired and when additional requests do not exceed the maximum combined total of one full year under the various leave policies.

FAILURE TO RETURN

Department Head

17. Initiates "Notice of Intent to Take Disciplinary Action" for job abandonment; sends by regular and certified mail; and forwards a copy to Human Resources.

Employee

18. Responds orally or in writing within ten working (10) days.

Department Head

19. Considers additional information when response received from employee. Reinstates employee OR initiates notice of termination due to job abandonment when no response received.